



Thirty-ninth Regular Meeting of the Executive Committee

Incorporation Countries That Are Not OAS Permanent Observers as IICA Permanent Observers

IICA/CE/Doc. 400 (19) - Original: Spanish

San Jose, Costa Rica
16-17 July 2019

REGULATIONS FOR IICA PERMANENT OBSERVERS

I. INTRODUCTION

The need for regulations specifying procedures to be followed for designating IICA Permanent Observers and for institutionalizing the privileges and obligations they might have, other than those related to meetings, recently became apparent when representatives of New Zealand, a non OAS Permanent Observer, expressed an interest in becoming an IICA Observer. In response to that need, the Director General submits the attached draft Resolution and Regulations for the Executive Committee's consideration and recommendation to the Board.

II. BACKGROUND

Several years after the OAS General Assembly created the possibility of Permanent Observer status for non-OAS Member States in 1971, IICA passed Resolution IICA/JD Res. 7 (9/74) providing for the participation of OAS Permanent Observers in the Institute's meetings. In 1981, when IICA adopted Rules of Procedure for the IABA and Executive Committee under its new Convention, it also included in those Rules provisions for the participation of "Permanent Observers of the Organization of American States or the Institute" in its meetings.¹

Procedures for designating OAS Permanent Observers and specifying the nature of their relationship with the Organization are set out in several Resolutions of the OAS Permanent Council, pursuant to a mandate from the OAS General Assembly. The most comprehensive of those Resolutions is CP/RES. 407 (573/84) "Revised Procedures for Granting the Status of Permanent Observer," adopted by the OAS Permanent Council in 1984. Since then, the Permanent Council has not modified those "Procedures" and they are still in force.²

Article 7 of those Procedures provides, however, that they do not apply to the OAS Specialized Organizations, of which IICA is one.³ Rather it goes on to state that that each Specialized Organization, "may establish regulations to govern the presence and the manner of participation of the Permanent Observers in its affairs."⁴

¹ See IICA Rules of Procedure of the IABA, Articles 8-10 and Rules of Procedure of the Executive Committee, Articles 12-13. For example, Article 9 of the Board's Rules of Procedure states: "Permanent Observers to the Organization of American States **or the Institute**, or their respective alternates, shall be accredited by the respective governments to participate in the meetings of the Board (...)" (Emphasis Added).

² See Resolution CP/Res. 619 (978/94).

³ Currently, there are six Specialized Organizations of the OAS. Their legal status within the Organization is defined in Chapter XVIII of the OAS Charter. Under Article 126 of the Charter, the Specialized Organizations are technically autonomous from the other OAS Organs, but they must "take into account the recommendation" of the OAS General Assembly and the Councils (...)"

⁴ Article 8 of the Procedures set out in CP/Res. 407 goes on to state that in establishing such regulations, the Specialized Agencies must take into "account such recommendations as the Permanent Council may make in this regard." But as of this date, the Permanent Council has not followed up with any such recommendations, and in its review of CP/Res. 407 in 1994, it decided, by way of CP/Res. 619 (978/94) not to make any changes in the CP/RES. 407 "Procedures."

Nonetheless, aside from the several provisions set out in the IABA and Executive Committee Rules specifying that OAS Permanent Observers or those of the Institute (“IICA Permanent Observers”) may accredit representatives to participate in IABA and Executive Committee meetings, IICA has never fully responded to the invitation set out in Article 7 of CP/RES. 407 to establish its own Regulations governing the participation of Permanent Observers in its affairs. There are no IICA Rules setting out a process for the designation of Permanent Observers of the Institute, that is “IICA Permanent Observers.” No Rule sets out how an OAS Permanent Observer may acquire the status of an IICA Permanent Observer. Nor is there any Rule which establishes how a state which is not an OAS Permanent Observer, like New Zealand, can become an IICA Permanent Observer. And, except for the Rules governing participation in the meetings of IICA’s governing bodies, IICA has never adopted other norms which set out basic guidelines for the relationship between IICA’s Permanent Observers and the Institute.⁵

Rather, under what has become a long standing practice, once an OAS Permanent Observer accredits its representatives to a meeting of either the Executive Committee or IABA, it automatically acquires forever the status of an IICA Permanent Observer. No such practice exists for designating states which are not OAS Permanent Observers as IICA Permanent Observers. In fact, presently there are no IICA Permanent Observers that are not also OAS Permanent Observers.

The purpose of the attached Resolution and Regulations is to institutionalize the process by which IICA designates its Permanent Observers and to establish guidelines for their relationship with the Institute. A Section-by-Section analysis explaining in greater detail the origin, motive, and/or rationale underlying the proposed Regulations follows.

SECTION-BY-SECTION ANALYSIS

A. The Draft Regulations -- Attachment A of the Draft Resolution

Article I: Definitions

The definitions of key terms used in the Regulations and established in this Article are based largely on definitions already set out in the *Standards for IICA Associates*. The definition of “State,” is that which is set out in the 1934 Montevideo Convention on the Rights and Duties of States. The definitions for both

⁵ In 1997, the IABA, upon the initiative of then Director General Carlos Aquino, adopted Resolution IABA/RES. 312 (IX-O/97) establishing the possibility of IICA Associate status for Permanent Observers, international, regional, and national organizations, and other non-IICA Member States considered to be qualified for that status. “The Standards for IICA Associates” adopted under that Resolution provide for IICA Associates certain preferences, privileges, and rights not customarily enjoyed by Permanent Observers, but in exchange, Associate status also require an annual contribution to the Institute’s Regular Fund and strongly urges participation in a multi-lateral voluntary Fund. A Permanent Observer or other eligible entity requesting Associate Status must request it in writing from the Executive Committee, through the Director General. That status will be conferred only if the Executive Committee approves the request by vote of two thirds of its members. Notwithstanding this initiative to encourage the participation of non-IICA member states in IICA activities, no similar effort to set out written rules for designating IICA Observers, and any privileges and obligations they might have in addition to the opportunity to participate in the meetings of IICA governing bodies, as established in the IABA and Executive Committee Rules of Procedure, was made.

OAS and IICA Permanent Observers is broad enough so as to include regional organizations with the attributes of states, like the European Union.

Article II: Designation of OAS Permanent Observers

Article II establishes criteria for designating two kinds of states as IICA Permanent Observers: Those that have already been designated by the OAS Permanent Council as OAS Permanent Observers and those that are not OAS Permanent Observers.

Section 2.1 simply institutionalizes by way of a written regulation the long standing practice of according OAS Permanent Observers that accredit representatives to IICA meetings as IICA Permanent Observers. Because these States already have been vetted by the Permanent Council, an OAS Organ upon which all OAS and IICA Member States are currently represented, no additional review of the governing bodies is necessary.

Section 2.2 establishes a process for designating as IICA Permanent Observers states which are not OAS Permanent Observers.

The process requires a request from the Foreign Ministry of the Requesting State, rather than just the Ministry of Agriculture, response that may be communicated through the Embassy of the applicant country. The reason is that a decision to participate in an international organization and the overall supervision of a State's relationship with entities governed by public international law, like IICA, are questions which normally fall under the jurisdiction of a State's Foreign Ministry.

This Section delegates to the Executive Committee the authority to confer the status of IICA Permanent Observer by a vote of two thirds of its Members. The rationale for delegating this important function to the Executive Committee is two-fold. First, beginning in 1997, the IABA began a process of institutional reform in which it delegated many of its functions to the Executive Committee, so that the Ministers could spend more of the limited time in Board meetings discussing the larger policy questions in the hemisphere and affecting the Institute. Second, consistent with that development, the IABA, in approving the *Standards for IICA Associates*, assigned to the Executive Committee the task of granting Associate Status to states and other qualified entities by a two-thirds vote of the Committee members, instead of taking on that function itself.⁶ So, if the IABA is willing to assign the function of designating IICA Associates, which implies an even stronger institutional relationship and identification with the Institute than that associated with Permanent Observers, then it should be willing to trust the Executive Committee with the task of designating IICA Permanent Observers as well.

Nonetheless, in the final subsection "c" of Section 2.2, we have added a provision which provides for additional political review if an IICA Member State participating in the Executive Committee meeting opposes a request for IICA Permanent Observer status because the Requesting State is in a territorial dispute or other substantial litigation with an IICA or OAS Member State. In that case, the request will be forwarded to the IABA for its consideration and disposition under Article 71 of its Rules of Procedure. Under that Article, the request would require the approval of a majority of the IICA Member States.

⁶ See Resolution IABA/RES. 312 (IX-O/97)

This provision in subsection “c” is not original. It is adapted from the Permanent Council’s “Procedures” set out in CP/Res. 407, which allows the Permanent Council to designate Permanent Observers, except when a Member State raises a similar question. In those cases, the task of deciding whether the State receives Permanent Observer status is referred to the OAS General Assembly for final disposition.

Article III: Loss of Permanent Observer Status

If IICA gives Permanent Observer status to a State based on certain criteria, it should be able to terminate that status when the criteria are no longer satisfied. So, the purpose of Article III is to set out the circumstances under which Permanent Observer Status terminates.

Section 3.1 states that Permanent Observer status ceases when that State’s Foreign Ministry notifies the Director General in writing that it no longer wishes to enjoy that status. Clearly, IICA cannot force a state to be a Permanent Observer if it does not wish to be one.

Section 3.2 states that when a State that became an IICA Permanent Observer solely based on its status as an OAS Permanent Observer ceases to be an OAS Permanent Observer, it will also cease to be an IICA Permanent Observer. The Rule goes on to state, however, that a State that so loses its status as an OAS Permanent Observer can request designation as an IICA Permanent Observer through the procedure established in Section 2.2, requiring a decision by the Executive Committee, or in the special cases stated therein, by the IABA.

Section 3.3 states that a State may lose its Permanent status by a vote of two thirds of the Executive Committee or the IABA pursuant to its Rule 71 if it engages in an act of armed aggression against any OAS or IICA Member State or no longer satisfies the criteria under which that status was granted. This disposition is not original. It is an adaption of Article 7.1 of the *Standards for IICA Associates* which authorizes the Executive Committee to revoke the Associate status of a state under similar circumstances.⁷

Article IV: Privileges and Obligations of IICA Permanent Observers

Section 4.1, in accordance with current practices and Rules, provides that an IICA Permanent Observer may participate in meetings of the governing bodies; however, their participation is limited. They cannot vote; and they can attend private meetings and speak at them only with the permission of the corresponding Chair, which may be overruled by a vote of two thirds of the IICA member states present at the private meeting.

Section 4.2 establishes that the IICA Permanent Observers will receive advanced notice of the meetings of the governing body by email. They may also receive meeting documents in advance by email, but only if they request them, as long as the documents are not considered confidential. Also, they will receive minutes. To receive the notice and documents mentioned in this Section, they must provide the Director General with an email address for that purpose.

⁷ A similar provisions for withdrawal of OAS Permanent Observer Status is set out in the “Procedures” adopted by the OAS Permanent Council in CP/Res. 407, *op cit*.

Section 4.3 establishes a methodology for determining the precedence of IICA Permanent Observers for IICA meetings. After considering several alternatives, it was concluded that the fairest way for each meeting would be on a first-come, first-serve basis. That precedence would be established based on the date and time that each IICA Permanent Observer presents satisfactory credentials to attend the meeting. Another option would be “by lot” – drawing names out of a box. But that would require a ceremony of sorts which all could observe to ensure fairness. The method suggested in this Section leaves a verifiable paper trail, requires no such ceremony, and should result in different ordering for each meeting, which is desirable.

Section 4.4 assures the IICA Permanent Observers that they will be provided with “reasonable” facilities for conducting their official functions for the meetings while at the meetings. I used the term “reasonable,” because it is a term which takes into account the circumstances of the place and time. What is reasonable in Washington, D.C., Bogota, or Buenos Aires, for example, may not be reasonable for a meeting in a venue where infrastructure is more limited.

Section 4.5 reminds IICA Permanent Observers that they can enjoy greater privileges by becoming IICA Associates and urges them to do so, consistent with already existing IICA policy set out in the *Standards for IICA Associates*.

Section 4.6 provides that Permanent Observers may participate as strategic partners in IICA’s programs, projects, and activities, by sharing experiences, contributing resources, etc. Furthermore, it contains exhortatory language urging them to do so. This is an important aspect of being a Permanent Observer of IICA which so far, in the case of most, has been overlooked and underdeveloped.

Article V: The Role of the General Directorate

There is little in this Section that is original. Most of the functions assigned to the General Directorate here are adapted from functions assigned to the OAS General Secretariat for administering and fomenting improved relations with OAS Permanent Observers.⁸ The functions are grounded on common sense. They include: developing mechanisms to facilitate more productive participation; publicizing in the Member States joint activities with IICA Permanent Observers; maintaining systematic and regular contact with the IICA Permanent Observers; providing them with copies of these Regulations and any other resolutions of IICA’s governing bodies which affects their relationship with the Institute so that they are well-informed as to their privileges and as to their obligations to the Institute; encouraging non IICA Permanent Observers with a vision and interests consistent with IICA’s to become IICA Permanent Observers; and including in IICA’s annual report a list of OAS Permanent Observers with a brief description of the activities carried out jointly with each of them.

Article VI: Miscellaneous Provisions

This Article contains standard provisions specifying when these Rules will enter into force and how they may be modified or revoked. As to the first issue, Article 6.1 states that the Regulations will enter into force when approved by the IABA. As for the second, Article 6.2 provides that the Rules may be modified or repealed by a two-thirds vote of the Executive Committee (like the Statutes for Associate Status) or by the IABA, with an affirmative vote of a majority of the IICA Member States.

⁸ See, for example, Resolutions CP/Res. 68 (69/72), CP/Res. 407 (573/84), and CP/Res. 619 (978/94).

B. Proposed Modifications to Articles 8-10 of the IABA Rules of Procedure and Articles 12 and 13 of the Executive Committee Rules of Procedure in Attachments B and C of the Draft Resolution

Just as it was necessary to make some minor modifications to the Executive Committee and Board Rules of Procedure when the IABA adopted the *Standards for IICA Associates* in 1997 for the purpose of conforming those Rules to the *Standards*, it will be necessary to make several minor modifications to the Executive Committee and Board Rules if the Board approves the attached proposed Regulations for IICA Permanent Observers in order to conform them to the Regulations. Those modifications are set out in Attachments B and C of the attached Resolution.

For the Board Rules, the proposal is to combine the current Rules 8-10 into one new Article 8. The new Article 8 refers back to the Regulations for IICA Permanent Observers for defining IICA Permanent Observers and their designation. It then goes on to elaborate the norms governing their participation in the meetings. There is no major change in those norms, except for the clarification that only IICA Permanent Observers who request IICA meeting documents in advance will receive them and that the facilities provided to them at the meetings will be “reasonable.” Also, to avoid confusion with OAS Permanent Observers, the term “IICA Permanent Observers” is used to refer to Permanent Observers under the Rules.

Virtually identical changes are proposed for the corresponding Rules of Procedure of the Executive Committee, Rules 12 and 13. The norms governing Permanent Observer participation in that meeting are now all consolidated in Rule 12, thus obviating the need for Rule 13, which will be eliminated.

ANNEXES

DRAFT RESOLUTION

REGULATIONS FOR IICA PERMANENT OBSERVERS

The EXECUTIVE COMMITTEE, at its Thirty-ninth Regular Meeting,

HAVING SEEN:

Document IICA/CE/Doc. 698 (19), “Regulations for IICA Permanent Observers,”

CONSIDERING:

That, via Resolution IICA/JD/Res. 7 (9/74), and subsequently in its Rules of Procedure for its governing bodies, IICA adopted provisions for the participation of “Permanent Observers to the Organization of American States [(‘OAS Permanent Observers’)] or the Institute” in the meetings of those governing bodies;

That once an OAS Permanent Observer sends accredited representatives to a meeting of one of IICA’s governing bodies, it is considered thereafter, under a long-standing practice of the Institute, to be a Permanent Observer of the Institute (“IICA Permanent Observer”); however, there are no established practices or rules governing the designation of states that are not OAS Permanent Observers as IICA Permanent Observers, and, as of this date, there are no IICA Permanent Observers that are not also OAS Permanent Observers; and,

That recent discussions with representatives of New Zealand, a state that is not an OAS Permanent Observer, over the possibility of becoming an IICA Permanent Observer brought to the Director General’s attention the need for institutionalizing the practices and procedures for designating IICA Permanent Observers and for establishing guidelines for their relationship with the Institute. To that end, he has proposed for the approval of IICA’s governing bodies the attached draft “Regulations for IICA Permanent Observers,” together with the necessary corresponding modifications to the IABA and Executive Committee Rules of Procedure, in the event that those regulations are adopted,

RESOLVES:

1. To recommend for the approval of the IABA at its next regular meeting the draft “Regulations for IICA Permanent Observers,” set out in Attachment A of this Resolution, together with the modifications to the IABA and Executive Committee Rules of Procedure set out in Attachments B and C hereto.
2. To urge the Director General and the Member States to encourage OAS Permanent Observers that are not already IICA Permanent Observers, as well as other non-IICA Member States that share common objectives and interests with the Institute, to become IICA Permanent Observers.

REGULATIONS FOR IICA PERMANENT OBSERVERS

ARTICLE I DEFINITIONS

1.1 State: A person recognized under international law as having the following attributes, in accordance with the 1934 Montevideo Convention on the Rights and Duties of States: (a) a permanent population, (b) a defined territory, (c) government, and (d) the capacity to enter into relations with other states.

1.2 OAS Permanent Observer: A state or governmental entity having the attributes of a state under international law (e.g., the European Union) granted Permanent Observer status by the Permanent Council of the Organization of American States (OAS) in accordance with Resolution CP/RES. 407 (573/84) and other applicable rules and regulations of the OAS.

1.3 IICA Permanent Observer: A state or governmental entity having the attributes of a state under international law (e.g., the European Union) that has been designated an IICA Permanent Observer under these regulations.

1.4 Non-IICA Member State: A state or governmental entity having the attributes of a state under international law and that is not a member of IICA.

1.5 Requesting State: A Non-IICA Member State that is not an OAS Permanent Observer and requests designation as an IICA Permanent Observer.

1.6 Board or "IABA": Inter-American Board of Agriculture.

1.7 IICA Associate: An IICA Permanent Observer, other Non-IICA Member State, or international, regional, or national organization that satisfies the conditions of IICA Associate under the "Standards for IICA Associates," approved under Resolution IABA/Res. 312 (IX-O/97), as amended.

ARTICLE II DESIGNATION OF IICA PERMANENT OBSERVERS

2.1 An OAS Permanent Observer that is also a Non-IICA Member State may become an IICA Permanent Observer by presenting to the Director General the credentials of its representative to participate in a meeting of IICA's Executive Committee or the Inter-American Board of Agriculture. From that time onward, the OAS Permanent Observer shall be designated an IICA Permanent Observer, subject to the additional terms and conditions in these regulations.

2.2 A state that is not an OAS Permanent Observer and is a Non-IICA Member State may become an IICA Permanent Observer as follows:

- a. The Requesting State, through the appropriate authority in its Foreign Ministry, must first submit a written request to the Director General, who will then submit the request to the Executive Committee with a recommendation for its consideration at its next regular meeting.
- b. The Executive Committee shall consider and vote on the request, and the Requesting State shall be designated an IICA Permanent Observer upon the approval of two-thirds of the Executive Committee's members.
- c. Notwithstanding subsection "b" above, if any member of the Executive Committee or any IICA Member State that is not an Executive Committee member but that is otherwise participating in the meeting opposes the request on the basis that the Requesting State is in a territorial dispute or other substantial litigation with an IICA or OAS Member State, then the Executive Committee shall not decide on the request. Rather, the Executive Committee shall submit the request to the next regular meeting of the Inter-American Board of Agriculture for consideration. If the Board approves the request in accordance with Article 71 of its Rules of Procedure (a majority of the IICA Member States), the Requesting State shall be designated an IICA Permanent Observer.

ARTICLE III LOSS OF PERMANENT OBSERVER STATUS

3.1 In the event that the Foreign Ministry of any Permanent Observer, through its appropriate authority, notifies the Director General in writing that it no longer wishes to be designated as an IICA Permanent Observer, that designation shall cease upon the Director General's receipt of that notification or upon such other date agreed to by the Director General and that authority.

3.2 If a State that was designated as an IICA Observer pursuant to Section 2.1 above ceases to be an OAS Observer, then it shall cease to be an IICA Observer unless it then requests designation pursuant to the procedure set out in Section 2.1 and that designation is granted.

3.3 The Executive Committee, by a vote of two-thirds of its members, or the IABA, in accordance with Article 71 of its Rules of Procedure, may withdraw the Permanent Observer designation of any state that engages in an act of armed aggression against an OAS or IICA Member State, if it is involved in any other activities that are inconsistent with the principles established in the OAS Charter and/or the IICA Convention, or otherwise no longer satisfies the criteria under which it was designated an IICA Permanent Observer.

ARTICLE IV
PRIVILEGES AND OBLIGATIONS OF IICA PERMANENT OBSERVERS

4.1 Duly accredited representatives of IICA Permanent Observers may attend the public plenary sessions of the Executive Committee and of the Board. They may attend private meetings of those organs and their committees upon the invitation of the corresponding Chair. They may not vote; however, they may speak with the permission of the Chair. In any case, a Chair's decision taken in a meeting pursuant to this Section 4.1 may be overruled by a vote of two-thirds of the members present in that meeting.

4.2 The Director General shall notify IICA Permanent Observers by email of all regular and special meetings of the Executive Committee and the Board. Upon the written request of an IICA Permanent Observer, the Director General shall send to that Observer meeting documents that are not confidential in advance of those meetings, as well the meeting minutes and other non-confidential documents of the Institute. Each Permanent Observer shall furnish the Director General with an email address for receiving that notice and the documents requested.

4.3 The Order of Precedence for IICA Permanent Observers in each meeting of the Board and of the Executive Committee shall be determined according to the dates and time on those dates that satisfactory credentials of the principal representative of each Permanent Observer are received by the Director General for the meeting.

4.4 At each Meeting of the Executive Committee and of the Board, IICA shall provide the accredited representatives of IICA Permanent Observers with reasonable facilities to perform their official functions during those meetings.

4.5 IICA Permanent Observers are eligible to become Associates pursuant to the "Standards for IICA Associates" adopted under Resolution IABA/Res. 312 ((IX-0/97), and are urged to assume the privileges and obligations of IICA Associates.

4.6 IICA Permanent Observers should proactively engage with the Director General and other IICA staff members as strategic partners in implementing the programs, projects and activities of mutual interest established in the Medium-term Plan, the IICA Convention, and IABA Resolutions. They may do so by participating in IICA activities, funding specific IICA projects and activities, as well as sharing with the Institute and its Member States the technology, best practices, and other knowledge they have acquired in promoting agricultural development and rural welfare.

ARTICLE V
THE ROLE OF THE GENERAL DIRECTORATE

In addition to the abovementioned duties assigned to the Director General, the General Directorate of the Institute shall:

- a. Develop mechanisms to facilitate and make more productive the participation and cooperation of the IICA Permanent Observers in IICA's activities;
- b. Publicize more widely among the IICA Member States the cooperation and participation of IICA Permanent Observers in the Institute's programs, projects and activities;
- c. Maintain systematic and regular contact with IICA Permanent Observers and inform them of Institute programs, projects and other activities of mutual interest, with a view to driving and facilitating their participation in them;
- d. Encourage states whose interests coincide with those of IICA and that are not already IICA Observers to become IICA Observers and to participate meaningfully in IICA's activities;
- e. Provide IICA Permanent Observers with copies of these regulations, and any amendments thereto, and any other resolutions of the IABA or the Executive Committee affecting their relationship with the Institute; and,
- f. Include in the Institute's Annual Report a list of the IICA Permanent Observers together with a short description of the IICA activities in which they have participated during the corresponding year and recommendations for improving and stimulating Permanent Observer participation in the Institute's activities.

ARTICLE VI
MISCELLANEOUS PROVISIONS

6.1 These regulations shall enter into force upon the date of the IABA Resolution approving them and in accordance with its terms.

6.2 These regulations may be modified or repealed by a two-thirds vote of the members of the Executive Committee or by the IABA in accordance with Article 71 of its Rules of Procedure.

ATTACHMENT B

**MODIFICATIONS TO ARTICLES 8 AND 10 OF THE RULES OF PROCEDURE
OF THE INTER-AMERICAN BOARD OF AGRICULTURE**

REPLACE ARTICLE 8 WITH THE FOLLOWING TEXT:

Article 8: The Representatives of IICA Permanent Observers designated pursuant to the “Regulations for IICA Permanent Observers” in force may be accredited to participate in the regular and special meetings of the Board by sending the corresponding credentials to the Director General. With respect to those meetings, they shall have the following rights and privileges:

- a. To be informed in advance of public Board meetings;
- b. To attend the public meetings of the Board and its committees and address those meetings with the permission of the corresponding Chair;
- c. With the permission of the corresponding Chair, to attend private meetings and address those meetings;
- d. To be seated at plenary public meetings of the Board in the order of precedence established in accordance with those regulations;
- e. To receive, upon request, meeting documents in advance, as well as minutes of meetings and other non-confidential Institute documents; and,
- f. To be provided with reasonable facilities to perform their official functions during Board meetings.

STRIKE AND ELIMINATE ARTICLES 9 AND 10. NOTE IN THE RULES THAT RULES 9 AND 10 HAVE BEEN ELIMINATED BY THIS RESOLUTION.

**MODIFICATION OF ARTICLES 3, 12 AND 13 OF THE RULES OF PROCEDURE
OF THE EXECUTIVE COMMITTEE**

INSERT A NEW SUBSECTION 3(l), WHICH STATES:

The Committee shall have the following functions:

.....

1. Designate IICA Permanent Observers in accordance with the “Regulations for IICA Permanent Observers” in force.

RENUMBER THE FOLLOWING SUBSECTIONS ACCORDINGLY, AND IN THE NEW SUBSECTION m (FORMERLY l), INSERT AFTER THE TERM “PERMANENT OBSERVERS” THE TERM “OF IICA.”

REPLACE ARTICLE 12 WITH THE FOLLOWING TEXT:

Article 12. The Representatives of IICA Permanent Observers designated pursuant to the “Regulations for IICA Permanent Observers” in force may be accredited to participate in the regular and special meetings of the Board by sending the corresponding credentials to the Director General. With respect to those meetings, they shall have the following rights and privileges:

- a. To be informed in advance of public Executive Committee meetings;
- b. To attend the public meetings of the Executive Committee and its committees and address those meetings with the permission of the corresponding Chair;
- c. With the permission of the corresponding Chair, to attend private meetings and address those meetings;
- d. To be seated at plenary public meetings of the Executive Committee in the order of precedence established in accordance with those regulations;
- e. To receive, upon request, meeting documents in advance, as well as minutes of meetings and other non-confidential Institute documents; and,
- f. To be provided with reasonable facilities to perform their official functions during Executive Committee meetings.

STRIKE AND ELIMINATE ARTICLES 13. NOTE IN THE RULES THAT ARTICLE 13 WAS ELIMINATED BY THIS RESOLUTION.

**Comments by the United States of
America**



United States
Department of
Agriculture

Foreign
Agricultural
Service

Washington, D.C.
20250

AUG 29 2019

Dr. Manuel Otero
Director General
Inter-American Institute for Cooperation on Agriculture
Post Office Box 55-2200
Vazquez de Coronado, San Isidro 11101
San Jose, Costa Rica

Dear Director General Otero:

We appreciate the opportunity to comment on the recent proposal from the Inter-American Institute for Cooperation on Agriculture (IICA), "Draft Regulations for IICA Permanent Observers." The United States is a proud member of IICA and remains committed to its continued success.

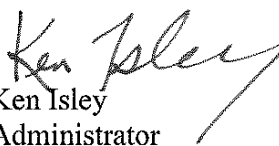
The United States appreciates IICA's consideration of new Permanent Observers. As well, we value the thoughtful discussion that took place during the July 2019 Executive Committee meeting. Unfortunately, after extensive consideration with our colleagues at the U.S. Department of State, we have concluded that the current draft regulation text cannot be accepted by the United States due to U.S. policy concerns. Thus, we would not be able to join consensus at the Inter-American Board of Agriculture (IABA) on this version of the text.

Considering this, the United States would like to submit the enclosed revisions to the proposed draft regulations that we believe strengthen the qualifications for potential Permanent Observers.

I offer these comments with sincere appreciation for your team's work in drafting the proposal. Please be assured that the United States will continue to engage with the Institute in the coming weeks to prepare for the upcoming IABA, including any deliberation on draft resolutions.

Thank you for the opportunity to respond. We look forward to a successful discussion in October.

Sincerely,


Ken Isley
Administrator

Enclosure

EDITS FROM THE UNITED STATES OF AMERICA

DRAFT RESOLUTION

REGULATIONS FOR IICA PERMANENT OBSERVERS

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HAVING SEEN:

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CONSIDERING:

That, via Resolution IICA/JD/Res. 7 (9/74), and subsequently in its Rules of Procedure for its governing bodies, IICA adopted provisions for the participation of “Permanent Observers to the Organization of American States [(‘OAS Permanent Observers’)] or the Institute” in the meetings of those governing bodies;

That once an OAS Permanent Observer sends accredited representatives to a meeting of one of IICA’s governing bodies, it is considered thereafter, under a long-standing practice of the Institute, to be a Permanent Observer of the Institute (“IICA Permanent Observer”); however, there are no established practices or rules governing the designation of states that are not OAS Permanent Observers as IICA Permanent Observers, and, as of this date, there are no IICA Permanent Observers that are not also OAS Permanent Observers; and,

That recent discussions with representatives of New Zealand, a state that is not an OAS Permanent Observer, over the possibility of becoming an IICA Permanent Observer brought to the Director General’s attention the need for institutionalizing the practices and procedures for designating IICA Permanent Observers and for establishing guidelines for their relationship with the Institute. To that end, he has proposed for the approval of IICA’s governing bodies the attached draft “Regulations for IICA Permanent Observers,” together with the necessary corresponding modifications to the IABA and Executive Committee Rules of Procedure, in the event that those regulations are adopted,

RESOLVES:

1. To recommend for the approval of the IABA at its next regular meeting the draft “Regulations for IICA Permanent Observers,” set out in Attachment A of this Resolution, together with the modifications to the IABA and Executive Committee Rules of Procedure set out in Attachments B and C hereto.
2. To urge the Director General and the Member States to encourage OAS Permanent Observers that are not already IICA Permanent Observers, as well as other non-IICA Member States that share common objectives and interests with the Institute, to become IICA Permanent Observers.

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REGULATIONS FOR IICA PERMANENT OBSERVERS

ARTICLE I DEFINITIONS

~~1.1 State: A person recognized under international law as having the following attributes, in accordance with the 1934 Montevideo Convention on the Rights and Duties of States: (a) a permanent population, (b) a defined territory, (c) government, and (d) the capacity to enter into relations with other states.~~

1.12 OAS Permanent Observer: An independent state or governmental entity having the attributes of a state under international law regional economic integration organization (e.g., the European Union) granted Permanent Observer status by the Permanent Council of the Organization of American States (OAS) in accordance with Resolution CP/RES. 407 (573/84) and other applicable rules and regulations of the OAS.

~~1.23 IICA Permanent Observer: An independent state or governmental entity having the attributes of a state under international law regional economic integration organization (e.g., the European Union) that has been designated an IICA Permanent Observer under these regulations.~~

Comentado [A1]: The phrase "independent State" is what OAS CP/RES. 407 uses.

1.34 Non-IICA Member State: An independent state or governmental entity having the attributes of a state under international law regional economic integration organization and that is not a member of IICA.

1.45 Requesting State: A Non-IICA Member State that is not an OAS Permanent Observer and requests designation as an IICA Permanent Observer.

1.56 Board or "IABA": Inter-American Board of Agriculture.

1.67 IICA Associate: An IICA Permanent Observer, other Non-IICA Member State, or international, regional, or national organization that satisfies the conditions of IICA Associate under the "Standards for IICA Associates," approved under Resolution IABA/Res. 312 (IX-O/97), as amended.

ARTICLE II DESIGNATION OF IICA PERMANENT OBSERVERS

2.1 An OAS Permanent Observer that is also a Non-IICA Member State may become an IICA Permanent Observer by presenting to the Director General the credentials of its representative to participate in a meeting of IICA's Executive Committee or the Inter-American Board of Agriculture. From that time onward, the OAS Permanent Observer shall be designated an IICA Permanent Observer, subject to the additional terms and conditions in these regulations.

2.2 A state that is not an OAS Permanent Observer and is a Non-IICA Member State may become an IICA Permanent Observer as follows, provided that such state has agricultural

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production in hectares of arable land equal to or greater than 75,000 hectares and has the ability to make voluntary in-kind or financial contributions to promote sustainable agricultural and rural development in the hemisphere, within the framework of the inter-American System:

- a. The Requesting State, through the appropriate authority in its Foreign Ministry, must first submit a written request to the Director General, who will then submit the request to the Executive Committee with a recommendation for its consideration at its next regular meeting.
- b. The Executive Committee shall consider and vote on the request, and the Requesting State shall be designated an IICA Permanent Observer upon the approval of two-thirds of the Executive Committee's members.
- c. Notwithstanding subsection "b" above, if any member of the Executive Committee or any IICA Member State that is not an Executive Committee member but that is otherwise participating in the meeting opposes the request on the basis that the Requesting State is in a territorial dispute or other substantial litigation with an IICA or OAS Member State, then the Executive Committee shall not decide on the request. Rather, the Executive Committee shall submit the request to the next regular meeting of the Inter-American Board of Agriculture for consideration. If the Board approves the request in accordance with Article 71 of its Rules of Procedure (a majority of the IICA Member States), the Requesting State shall be designated an IICA Permanent Observer.

Comentado [A2]: To more closely mirror OP4 in CP/RES 407

ARTICLE III LOSS OF PERMANENT OBSERVER STATUS

3.1 In the event that the Foreign Ministry of any Permanent Observer, through its appropriate authority, notifies the Director General in writing that it no longer wishes to be designated as an IICA Permanent Observer, that designation shall cease upon the Director General's receipt of that notification or upon such other date agreed to by the Director General and that authority.

3.2 If a State that was designated as an IICA Permanent Observer pursuant to Section 2.1 above ceases to be an OAS Permanent Observer, then it shall cease to be an IICA Permanent Observer unless it then requests designation pursuant to the procedure set out in Section 2.1 and that designation is granted.

3.3 The Executive Committee, by a vote of two-thirds of its members, or the IABA, in accordance with Article 71 of its Rules of Procedure, may withdraw the Permanent Observer designation of any state ~~that engages in an act of armed aggression against an OAS or IICA Member State~~, if it is involved in any other activities that are inconsistent with the principles established in the OAS Charter and/or the IICA Convention, or otherwise no longer satisfies the criteria under which it was designated an IICA Permanent Observer.

Comentado [A3]: The determination of aggression is a specialized legal/political determination. These determinations should generally be made by States and the United Nations Security Council. Deleting this clause would still permit the Executive Committee to vote to withdraw Permanent Observer status for a state's conduct that may constitute aggression without the need to make such a politically sensitive legal determination.

ARTICLE IV PRIVILEGES AND OBLIGATIONS OF IICA PERMANENT OBSERVERS

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4.1 Duly accredited representatives of IICA Permanent Observers may attend the public plenary sessions of the Executive Committee and of the Board. They may attend private meetings of those organs and their committees upon the invitation of the corresponding Chair. They may not vote; however, they may speak with the permission of the Chair. In any case, a Chair's decision taken in a meeting pursuant to this Section 4.1 may be overruled by a vote of two-thirds of the members present in that meeting.

4.2 The Director General shall notify IICA Permanent Observers by email of all regular and special meetings of the Executive Committee and the Board. Upon the written request of an IICA Permanent Observer, the Director General shall send to that Observer meeting documents that are not confidential in advance of those meetings, as well the meeting minutes and other non-confidential documents of the Institute. Each Permanent Observer shall furnish the Director General with an email address for receiving that notice and the documents requested.

4.3 The Order of Precedence for IICA Permanent Observers in each meeting of the Board and of the Executive Committee shall be determined according to the dates and time on those dates that satisfactory credentials of the principal representative of each Permanent Observer are received by the Director General for the meeting.

4.4 At each Meeting of the Executive Committee and of the Board, IICA shall provide the accredited representatives of IICA Permanent Observers with reasonable facilities to perform their official functions during those meetings.

4.5 IICA Permanent Observers are eligible to become Associates pursuant to the "Standards for IICA Associates" adopted under Resolution IABA/Res. 312 ((IX-0/97), and are urged to assume the privileges and obligations of IICA Associates.

4.6 IICA Permanent Observers should proactively engage with the Director General and other IICA staff members as strategic partners in implementing the programs, projects and activities of mutual interest established in the Medium-term Plan, the IICA Convention, and IABA Resolutions. They may do so by participating in IICA activities, funding specific IICA projects and activities, as well as sharing with the Institute and its Member States the technology, best practices, and other knowledge they have acquired in promoting agricultural development and rural welfare.

ARTICLE V THE ROLE OF THE GENERAL DIRECTORATE

In addition to the abovementioned duties assigned to the Director General, the General Directorate of the Institute shall:

- a. Develop mechanisms to facilitate and make more productive the participation and cooperation of the IICA Permanent Observers in IICA's activities;

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- b. Publicize more widely among the IICA Member States the cooperation and participation of IICA Permanent Observers in the Institute's programs, projects and activities;
- c. Maintain systematic and regular contact with IICA Permanent Observers and inform them of Institute programs, projects and other activities of mutual interest, with a view to driving and facilitating their participation in them;
- d. Encourage states whose interests coincide with those of IICA and that are not already IICA Observers to become IICA [Permanent](#) Observers and to participate meaningfully in IICA's activities;
- e. Provide IICA Permanent Observers with copies of these regulations, and any amendments thereto, and any other resolutions of the IABA or the Executive Committee affecting their relationship with the Institute; and,
- f. Include in the Institute's Annual Report a list of the IICA Permanent Observers together with a short description of the IICA activities in which they have participated during the corresponding year and recommendations for improving and stimulating Permanent Observer participation in the Institute's activities.

ARTICLE VI MISCELLANEOUS PROVISIONS

6.1 These regulations shall enter into force upon the date of the IABA Resolution approving them and in accordance with its terms.

6.2 These regulations may be modified or repealed by a two-thirds vote of the members of the Executive Committee or by the IABA in accordance with Article 71 of its Rules of Procedure.